

REMARKS / ARGUMENTS

In the Office Action of May 14, 2010, the above-identified application has been subjected to a restriction requirement. In response to the requirement, Applicants elect with traverse, the claims of Group II, claims 5 and 14 (directed to a method for increasing plant yield comprising introducing into a plant a cyclin A2 comprising the motifs as indicated in claim 5 and to a plant obtainable by said method), for continued prosecution in the above-identified application.

The rules which the PTO follows in implementing unity of invention considerations in PCT applications are found in 37 C.F.R. 1.475-1.477, 1.499, and MPEP §18903.03(d). Whether an application is at the international or national stage, PCT Rule 13 governs a unity of invention analysis.

When making a lack of unity of invention requirement, the Examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group i.e., why there is no single general inventive concept specifically describing the unique special technical feature in each group.

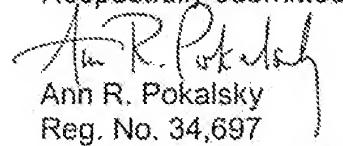
Under PCT Rule 13, a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression "technical feature" is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art.

The Examiner has characterized the technical feature linking the inventions of Groups I-VIII as a cyclin A nucleic acid molecule. According to the Examiner, a cyclin A nucleic acid molecule is obvious or anticipated over INZE et al. (WO 01/86946, 15 November 2001) and HELENJARIS et al. (WO 00/65040, 02 November 2000) and therefore does not constitute a special technical feature as defined by PCT Rule 13.2, because it does not define a contribution over the prior art. Applicants respectfully disagree.

Notwithstanding the Examiner's characterization of the present invention, Applicants respectfully submit that there is one single general inventive concept that specifically describes the unique special technical feature of each group. This single, general inventive concept is the increase of plant yield by means of a cyclin A gene. The technical feature linking the different groups is the genetic modification of a plant by introduction of a cyclin A for increasing its yield.

Thus, Applicants respectfully submit that there is technical relationship among the groups of claims involving the same special technical feature. As such, the restriction requirement is improper and should be withdrawn.

Respectfully submitted,



Ann R. Pokalsky
Reg. No. 34,697
Attorney for Applicants

DILWORTH & BARRESE
1000 Woodbury Road, Suite 405
Woodbury, New York 11797
(516) 228-8484
ARP/ml